

CASE CLOSED 2

DATE _____
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERVIN JOHNSON,

Plaintiff,

Case No. 03-72536

v.

HONORABLE DENISE PAGE HOOD

HARRIS SPICER, et al.,

Defendants.

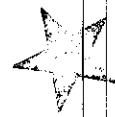
ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation dated May 3, 2005. Neither Party has filed objections to this Report.

Magistrate Judge Whalen recommends this Court dismiss Plaintiff's pro se civil rights Complaint without prejudice because he has not served Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure. The Magistrate had previously issued an Order to Show Cause why the Complaint should not be dismissed for failure to prosecute on February 1, 2005. The Magistrate's Order to Show Cause required Plaintiff to respond in writing by March 1, 2005. Plaintiff's notice of the Magistrate's Order was returned as undeliverable on February 15, 2005. Magistrate Judge Whalen noted that the Michigan Offender Tracking Information System showed Plaintiff was discharged from custody on August 23, 2003. Plaintiff has not provided the Court with a notice of change of address at any point in these proceedings.

This Court agrees with the Magistrate's determination that Plaintiff has apparently abandoned this case. The Court dismisses Plaintiff's Complaint without prejudice.

Accordingly,

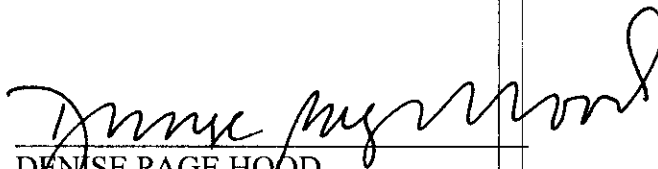


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IT IS ORDERED that the Report and Recommendation of Magistrate Judge R. Steven Whalen, dated May 3, 2005, is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Complaint is DISMISSED without prejudice.


DENISE PAGE HOOD
United States District Judge

DATED: JUN 3 0 2005